

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Attorney Docket No. 14972US02

In the Matter of:
 Marcus Kellerman, *et al.*

Serial No. 10/675,110

Filed: September 30, 2003

For: MEDIA PROCESSING SYSTEM SUPPORTING DIFFERENT
MEDIA FORMATS VIA SERVER-BASED TRANSCODING

Examiner: Christopher A. Revak

Group Art Unit: 2131

Confirmation No. 4986

APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from an Office Action dated February 9, 2006 ("Final Office Action"), in which claims 1-12 and 16-20 were finally rejected. The Appellants respectfully request that the Board of Patent Appeals and Interferences reverse the final rejection of claims 1-12 and 16-20 of the present application.

The Appellants note that this corrected Appeal Brief is timely filed in response to the August 3, 2006 Notification of Non-Compliant Appeal Brief, with a period of reply ending on September 3, 2006.

REAL PARTY IN INTEREST
(37 C.F.R. § 41.37(c)(1)(i))

Broadcom Corporation, a corporation organized under the laws of the state of California, and having a place of business at 16215 Alton Parkway, Irvine, California 92618-3616, has acquired the entire right, title and interest in and to the invention, the application, and any and all patents to be obtained therefor, as set forth in the Assignment recorded at Reel 014276, Frame 0228 in the PTO Assignment Search room.

RELATED APPEALS AND INTERFERENCES
(37 C.F.R. § 41.37(c)(1)(ii))

Not applicable.

STATUS OF THE CLAIMS
(37 C.F.R. § 41.37(c)(1)(iii))

The present application includes pending claims 1-28, of which claims 1-12 and 16-20 were finally rejected.¹ Claims 13-15 and 21-28 were allowed.² Claims 1-5, 7-12, and 16-17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Suzuki, et al., U.S. Patent 6,463,445 ("Suzuki").³ Claims 6 and 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki.⁴ The Applicants identify claims 1-12 and 16-20 as the claims that are being appealed. The text of the pending claims is provided in the Claims Appendix.

STATUS OF AMENDMENTS
(37 C.F.R. § 41.37(c)(1)(iv))

The Applicants have not amended any claims subsequent to the final rejection of claims 1-12 and 16-20 mailed on February 9, 2006.

¹ See Present Application ("Application") at pages 24-29.

² See the Final Office Action at page 8.

³ See *id.* at page 3.

⁴ See *id.* at page 6.

SUMMARY OF CLAIMED SUBJECT MATTER
(37 C.F.R. § 41.37(c)(1)(v))

The invention of claim 1 is illustratively described in the Specification of the present application at, for example, paragraph [10]. Aspects of the present invention may be found in, for example, systems and methods that reformat media content.⁵ In one embodiment, a system may include, for example, a server, a first communications device and a second communications device.⁶ The server, the first communications device and the second communications device may be operatively coupled to a network.⁷ The second communications device may receive, from the first communications device, a device profile relating to the first communications device and may send the device profile and media content to the server.⁸ The server may reformat the media content based on the device profile.⁹

Claims 2-12 are dependent upon claim 1.

The invention of claim 16 is illustratively described in the Specification of the present application at, for example, paragraph [12]. In another embodiment, a system may include, for example, a server and a communications device.¹⁰ The server and the communications device may be operatively coupled to a network.¹¹ The communications device may receive media content of a format that is not supported by the communications device.¹² The communications device may send a device profile of the communications device and the received media content to the server.¹³ The server may reformat the media content from the communications device into a format that is

⁵ See present application at page 4, lines 2-3.

⁶ See *id.* at page 4, lines 3-4.

⁷ See *id.* at page 4, lines 4-6.

⁸ See *id.* at page 4, lines 6-8.

⁹ See *id.* at page 4, lines 8-9.

¹⁰ See *id.* at page 4, lines 16-17.

¹¹ See *id.* at page 4, lines 17-18.

¹² See *id.* at page 4, lines 18-19.

supported by the communications device based on the device profile.¹⁴

Claim 17 is dependent upon claim 16.

The invention of claim 18 is illustratively described in the Specification of the present application at, for example, paragraph [13]. In another embodiment, a system may include, for example, a communications device operatively coupled to a network.¹⁵

The communications device may store a revisable device profile of the communications device, send the revisable device profile to the network, and receive, from the network, media content that has been reformatted based on the device profile.¹⁶

Claims 19-20 are dependent upon claim 18.

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL
(37 C.F.R. § 41.37(c)(1)(vi))**

Claims 1-5, 7-12, and 16-17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Suzuki, et al., U.S. Patent 6,463,445 ("Suzuki"). Claims 6 and 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki.

**ARGUMENT
(37 C.F.R. § 41.37(c)(1)(vii))**

The present application includes pending claims 1-28. Claims 13-15 and 21-28 are allowed and claims 1-12 and 16-20 stand rejected. The Applicants respectfully submit that the claims define patentable subject matter.

Claims 1-5, 7-12, 16 and 17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Suzuki. Claims 6 and 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki. The Applicants respectfully traverse these rejections

¹³ See *id.* at page 4, lines 19-20.

¹⁴ See *id.* at page 4, lines 21-22.

¹⁵ See *id.* at page 4, lines 23-24.

¹⁶ See *id.* at page 4, lines 24-27.

at least for the following reasons:

I. Claim Rejections under 35 U.S.C. § 102(e)

The Applicants first turn to the rejection of claims 1-5, 7-12, 16 and 17 under 35 U.S.C. § 102(e) as being anticipated by Suzuki.

With regard to the anticipation rejection under Suzuki, MPEP 2131 states that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 2 USPQ2d 1051, 1053 (Fed.Cir. 1987). MPEP 2131 also states that “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

A. Rejection of Independent Claim 1 under 35 U.S.C. § 102(e)

With regard to the rejection of independent claim 1 under Suzuki, the Applicants submit that Suzuki clearly does not disclose or suggest at least the limitation of “a second communications device operatively coupled to the network, the second communications device receiving, from the first communications device, a device profile relating to the first communications device, and the second communications device sending the device profile and media content to the server, the server reformatting the media content based on the device profile,” as recited by the Applicants in independent claim 1 (emphasis added). In response to the Applicants’ arguments filed on 13-OCT-05, the Final Office Action and the Office Action of April 4, 2006 (“Advisory Office Action”) state the following:

The multimedia content server, interpreted as the second communication device, receives client information, interpreted as the device profile, related to the client, interpreted as the first communication device, from the

client, interpreted as the first communication device, and the content server, interpreted as the second communication device, sends the client information, interpreted as the device profile, and media content to the data access server.

See the Final Office Action, page 2, and the Advisory Office Action, page 2. (Emphasis added). The Applicants respectfully disagree with the above assertion. The Applicants submit that the multimedia content server 210 of Suzuki, interpreted by the Examiner as the second communication device, **receives only content information request 248 from the server 220, and does not receive a device profile** as recited by the Applicants in claim 1. See Suzuki, Figure 2, and column 6, lines 21-62. Furthermore, the Applicants submit that the multimedia content server 210 of Suzuki, interpreted by the Examiner as the second communication device, **sends only multimedia information 246 to the server 220, and does not send a device profile**, as recited by the Applicants in claim 1. See *id.*

As shown in Figure 1 of Suzuki, Suzuki teaches that the data access server 220, and not the second communication device (per the Examiner, multimedia contents server 210), receives the client information signal 242 (See Suzuki, col. 6, lines 21-22), in contrast to what is recited by the Applicants in claim 1. Furthermore, Suzuki teaches that **only multimedia content 246, and not device profile information**, is communicated from the second communication device (multimedia contents server 210) to the data access server 220 (See Suzuki, col. 6, lines 22-34), which is also in contrast to what is recited by the Applicants in claim 1.

Furthermore, the Advisory Office Action, without citing any support to Suzuki whatsoever, is attempting to broadly interpret “device profile” to cover what the Examiner (but not the Suzuki reference) calls “information supplied by the client that dictates what format the media is to be altered into.” See the Advisory Office Action, page 2. The Applicants respectfully disagree with such interpretation as it is overly broad and not supported by Suzuki. In addition, referring to Figure 1 of Suzuki, the data access server 220 communicates a content information request 248, which, the

Applicants submit, is not related to any device profile, including information related to media format conversion. Accordingly, the Applicants believe the rejection of independent claim 1 under 35 U.S.C. § 102(e) as being anticipated by Suzuki has been overcome and request that the rejection be reversed.

B. Rejection of Independent Claim 16 under 35 U.S.C. § 102(e)

With regard to the rejection of independent claim 16 under Suzuki, the Applicants submit that Suzuki clearly does not disclose or suggest at least the limitation of “a communications device operatively coupled to the network, the communications device receiving media content of a format that is not supported by the communications device and sending a device profile of the communications device and the received media content to the server,” as recited by the Applicants in independent claim 16. As shown in Figure 1 of Suzuki, *Suzuki does not teach that the communications device (client 230) receives “media content of a format that is not supported by the communications device,”* as recited by Applicants in claim 16. Instead, Suzuki teaches that the original, non-transcoded content 246 is communicated from the second communication device (per the Examiner, multimedia contents server 210) to the data access server 220, and ***not*** to the client 230. See Suzuki, column 7, lines 23-24. In this regard, Suzuki *only discloses that the client 230 communicates client information signal 242 (See Suzuki, column 6, lines 55-57) and that the client 230 receives **transcoded** multimedia content 244 (See Suzuki, column 7, lines 29-30),* which is clearly not “media content of a format that is not supported by the communications device” as set forth in claim 16. Accordingly, the Applicants believe the rejection of independent claim 16 under 35 U.S.C. § 102(e) as being anticipated by Suzuki has been overcome and request that the rejection be reversed.

C. Rejection of Dependent Claims 2-4 under 35 U.S.C. § 102(b)

Claims 2-4 depend on independent claim 1. Therefore, the Applicants submit that claims 2-4 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

D. Rejection of Dependent Claim 5 under 35 U.S.C. § 102(b)

Claim 5 depends on independent claim 1. Therefore, the Applicants submit that claim 5 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

Additionally, the Applicants submits that Suzuki does not disclose or suggest at least the limitation of “the first communications device requests the media content from the second communications device,” as recited by the Applicants in claim 5. In order to overcome this deficiency, the Final Office Action refers to col. 6, lines 21-28 of Suzuki. The Applicants would like to point out that even though Suzuki discloses, at the above citation, that client information and contents requests are communicated from the client 230 to the data access server 220, Suzuki clearly does not disclose or suggest that the first communication device (per the Examiner, client 230) requests media content from the second communication device (per the Examiner, server 210), as recited by the Applicants in claim 5. Suzuki discloses that the **client 230 requests media content from the data access server 220, and not from the server 210**. Accordingly, the Applicants believe the rejection of claim 5 under 35 U.S.C. § 102(e) as being anticipated by Suzuki has been overcome and request that the rejection be reversed.

E. Rejection of Dependent Claim 7 under 35 U.S.C. § 102(b)

Claim 7 depends on independent claim 1. Therefore, the Applicants submit that claim 7 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

Additionally, the Applicants submits that Suzuki does not disclose or suggest at least the limitation of "the first communications device is coupled to the network via a first headend, and ... the second communications device is coupled to the network via a second headend," as recited by the Applicants in claim 7. In order to overcome this deficiency, the Final Office Action refers to col. 6, lines 4-20 of Suzuki. The Applicants would like to point out that even though Suzuki discloses, at the above citation, that client 230 and servers 210 and 220 are linked via communication channels, Suzuki does not disclose or suggest that the first communication device (per the Examiner, client 230) and the second communication device (per the Examiner, server 210) are coupled to the network via a first and a second headend, respectively, as recited by the Applicants in claim 7. Accordingly, the Applicants believe the rejection of claim 7 under 35 U.S.C. § 102(e) as being anticipated by Suzuki has been overcome and request that the rejection be reversed.

F. Rejection of Dependent Claims 8-12 under 35 U.S.C. § 102(b)

Claims 8-12 depend on independent claim 1. Therefore, the Applicants submit that claims 8-12 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

G. Rejection of Dependent Claim 17 under 35 U.S.C. § 102(b)

Claim 17 depends on independent claim 16. Therefore, the Applicants submit that claim 17 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 16.

II. Claim Rejections under 35 U.S.C. § 103(a)

Claims 6 and 18-20 stand rejected under 35 U.S.C. § 103(a) as being

unpatentable over Suzuki.

With regard to an obviousness rejection under 35 U.S.C. § 103(a), MPEP 2142 states that in order for a prima facie case of obviousness to be established, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, *the prior art reference (or references when combined) must teach or suggest all the claim limitations*. Further, MPEP 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination,” and that “although a prior art device ‘may be capable of being modified to run the way the apparatus is claimed, *there must be a suggestion or motivation in the reference to do so*’” (citing *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990)). Moreover, MPEP 2143.01 also states that the level of ordinary skill in the art cannot be relied upon to provide the suggestion...,” citing *Al-Site Corp. v. VSI Int’l Inc.*, 174 F.3d 1308, 50 USPQ 2d 1161 (Fed. Cir. 1999).

A. Rejection of Independent Claim 18 under 35 U.S.C. § 103(a)

With regard to the third criterion stated above and in reference to independent claim 18, the Applicants submit that Suzuki does not disclose or suggest at least the limitation of “sending the revisable device profile to a first communications device operatively coupled to the network, and receiving media content, from a second communications device operatively coupled to the network, wherein the multimedia content has been reformatted based on the device profile,” as recited by the Applicants in independent claim 18. As shown in Figure 1 of Suzuki, Suzuki teaches that the first communication device (client 230) sends client information signal 242 only to the data access server 220, which performs the transcoding and not to another communication

device (See Suzuki, column 6, lines 21-22), in contrast to what is recited by the Applicants in claim 18. Furthermore, the Final Office Action concedes that Suzuki does not disclose or suggest that the device profile information is updated or revisable. See the Final Office Action at page 7. The Applicants respectfully agree. Based on at least the foregoing, the Applicants believe the rejection of independent claim 18 under 35 U.S.C. § 103(a) as being unpatentable over Suzuki has been overcome and request that the rejection be reversed.

B. Rejection of Claim 6 under 35 U.S.C. § 103(a)

Claim 6 depends on independent claim 1. Therefore, the Applicants submit that claim 6 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

With regard to the third criterion stated above and in reference to the rejection of claim 6 under 35 U.S.C. § 103(a), the Applicants submit that Suzuki does not disclose or suggest at least the limitation of "the first communications device can update the device profile," as recited by the Applicants in claim 6. In fact, the Final Office Action concedes that Suzuki does not disclose or suggest that the device profile information is updated or revisable. See the Final Office Action at page 7. The Applicants respectfully agree. Based on at least the foregoing, the Applicants believe the rejection of claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Suzuki has been overcome and request that the rejection be reversed.

C. Rejection of Claim 19 under 35 U.S.C. § 103(a)

Claim 19 depends on independent claim 18. Therefore, the Applicants submit that claim 19 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 18.

With regard to the third criterion stated above and in reference to the rejection of claim 19 under 35 U.S.C. § 103(a), the Applicants submit that Suzuki does not disclose or suggest at least the limitation of “the second communications device reformats the media content destined for the communications device based on the revisable device profile,” as recited by the Applicants in claim 19. In order to overcome this deficiency, the Final Office Action refers to col. 3, lines 45-49 and 61-63, and col. 7, lines 23-30 of Suzuki. The Applicants would like to point out that even though Suzuki discloses, at the above citation, that format conversion may be implemented within the data access server 220, Suzuki does not disclose or suggest that any format conversion takes place in the second communication device (as per the Examiner, multimedia contents server 210). Clearly Suzuki does not disclose or suggest the limitation of claim 19. Accordingly, the Applicants believe the rejection of claim 19 under 35 U.S.C. § 102(e) as being anticipated by Suzuki has been overcome and request that the rejection be reversed.

D. Rejection of Claim 20 under 35 U.S.C. § 103(a)

Claim 20 depends on independent claim 18. Therefore, the Applicants submit that claim 20 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 18.

With regard to the third criterion stated above and in reference to the rejection of claim 20 under 35 U.S.C. § 103(a), the Applicants submit that Suzuki does not disclose or suggest at least the limitation of “the second communications device stores the revisable profile for use in reformatting other media content destined for the communications device,” as recited by the Applicants in claim 20. In order to overcome this deficiency, the Final Office Action refers to col. 15, lines 8-25 of Suzuki. The Applicants would like to point out that *Suzuki discloses, at the above citation, a general purpose computer system embodiment of the data access server 220 and not the*

second communication device (as per the Examiner, multimedia contents server 210). Clearly Suzuki does not disclose or suggest the limitation of claim 20. Accordingly, the Applicants believe the rejection of claim 20 under 35 U.S.C. § 102(e) as being anticipated by Suzuki has been overcome and request that the rejection be reversed.

CONCLUSION

For at least the foregoing reasons, the Applicants submit that claims 1-12 and 16-20 are allowable. Reversal of the Examiner's rejection and issuance of a patent on the application are therefore requested.

The Commissioner is hereby authorized to charge \$500 (to cover the Brief on Appeal Fee) and any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 09-AUG-2006

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CLAIMS APPENDIX
(37 C.F.R. § 41.37(c)(1)(viii))

1. A system for reformatting media content, comprising:
a server operatively coupled to a network;
a first communications device operatively coupled to the network; and
a second communications device operatively coupled to the network, the second communications device receiving, from the first communications device, a device profile relating to the first communications device, and the second communications device sending the device profile and media content to the server, the server reformatting the media content based on the device profile.
2. The system according to claim 1, wherein the server sends the reformatted media content to the first communications device.
3. The system according to claim 1,
wherein the server transcodes the media content from a first type of format to a second type of format,
wherein the second type of format is compatible with the first communications device.
4. The system according to claim 1, wherein the server comprises a dedicated format conversion server.
5. The system according to claim 1, wherein the first communications device requests the media content from the second communications device.

6. The system according to claim 1, wherein the first communications device can update the device profile.

7. The system according to claim 1,
wherein the first communications device is coupled to the network via a first headend, and

wherein the second communications device is coupled to the network via a second headend.

8. The system according to claim 1, wherein at least one of the following: the first communications device, the second communications device and the server comprises a software platform that can provide at least one of the following: user-interface functionality, distributed storage functionality and networking functionality.

9. The system according to claim 1, wherein at least one of the following: the first communications device, the second communications device and the server comprises a software platform that can provide at least one of the following: device registration, channel setup, program setup, management and security.

10. The system according to claim 1, wherein at least one of the following: the first communications device, the second communications device and the server is adapted to provide at least one of the following: distributed networking capability, archival functionality, temporary storage capability, storage manager capability and digital rights manager capability.

11. The system according to claim 1, wherein the device profile comprises information related to media capabilities of the first communications device.

12. The system according to claim 1, wherein at least one of the following: the first communications device and the second communications device comprises a television screen that facilitates viewing and interacting with at least one of the following: a user interface, media, data and services available on the network.

16. A system for reformatting media content, comprising:

a server operatively coupled to a network; and

a communications device operatively coupled to the network, the communications device receiving media content of a format that is not supported by the communications device and sending a device profile of the communications device and the received media content to the server,

the server reformatting the media content received from the communications device into a format that is supported by the communications device based on the device profile of the communications device.

17. The system according to claim 16, wherein the server stores the device profile of the communications device for use in reformatting other media content destined for the communications device.

18. A system for reformatting media content, comprising:

a communications device operatively coupled to a network, the communications device storing a revisable device profile of the communications device, sending the revisable device profile to a first communications device operatively coupled to the network, and receiving media content, from a second communications device operatively coupled to the network, wherein the multimedia content has been reformatted based on the device profile.

19. The system according to claim 18, wherein the second communications device reformats the media content destined for the communications device based on the revisable device profile.

20. The system according to claim 19, wherein the second communications device stores the revisable profile for use in reformatting other media content destined for the communications device.

EVIDENCE APPENDIX
(37 C.F.R. § 41.37(c)(1)(ix))

- (1) United States Patent No. 6,463,445 ("Suzuki"), entered into record by the Examiner in the August 8, 2005 Office Action.

RELATED PROCEEDINGS APPENDIX
(37 C.F.R. § 41.37(c)(1)(x))

Not applicable.